

Introduced by Senator Hernandez

February 23, 2012

An act to amend Section 1279 of, and to add Section 1279.4 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1246, as introduced, Hernandez. Health facilities: staffing.

Existing law regulates general acute care hospitals, acute psychiatric hospitals, and special hospitals, as defined. Existing law required, by January 1, 2002, the State Department of Public Health to adopt regulations establishing the minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for general acute care hospitals, acute psychiatric hospitals, and special hospitals. Existing law requires these ratios to constitute the minimum number of registered and licensed nurses that shall be allocated and additional staff to be assigned in accordance with a documented patient classification system for determining nursing requirements.

Existing law authorizes the department to assess a licensee of a general acute care hospital, acute psychiatric hospital, or special hospital an administrative penalty, as specified, for a violation of existing law or for a deficiency constituting an immediate jeopardy violation, except that no penalty shall be assessed if it is a minor violation. Existing law requires that a person who willfully or repeatedly violates a rule or regulation adopted pursuant to these provisions is guilty of a misdemeanor.

This bill would require general acute care hospitals, acute psychiatric hospitals, and special hospitals to maintain a patient classification system, as defined, that is reviewed and updated annually. This bill

would provide that a failure to maintain and annually update a patient classification system, or failure to comply with a patient classification system, may be subject to an administrative penalty. By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law requires that every health facility for which a license or special permit has been issued shall be periodically inspected by the State Department of Public Health, or by another governmental entity under contract with the department. Existing law requires the department to inspect for compliance with provisions of state law and regulations during a state periodic inspection, or at the same time as a federal periodic inspection.

This bill would require the inspections to include review of compliance with state requirements for staffing, including the regulations adopted by the department establishing nurse-to-patient ratios and regulations regarding patient classification systems.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1279 of the Health and Safety Code is
2 amended to read:
3 1279. (a) Every health facility for which a license or special
4 permit has been issued shall be periodically inspected by the
5 department, or by another governmental entity under contract with
6 the department. The frequency of inspections shall vary, depending
7 upon the type and complexity of the health facility or special
8 service to be inspected, unless otherwise specified by state or
9 federal law or regulation. The inspection shall include participation
10 by the California Medical Association consistent with the manner
11 in which it participated in inspections, as provided in Section 1282
12 prior to September 15, 1992.

1 (b) Except as provided in subdivision (c), inspections shall be
2 conducted no less than once every two years and as often as
3 necessary to ensure the quality of care being provided.

4 (c) For a health facility specified in subdivision (a), (b), or (f)
5 of Section 1250, inspections shall be conducted no less than once
6 every three years, and as often as necessary to ensure the quality
7 of care being provided.

8 (d) During the inspection, the representative or representatives
9 shall offer such advice and assistance to the health facility as they
10 deem appropriate.

11 (e) For acute care hospitals of 100 beds or more, the inspection
12 team shall include at least a physician, registered nurse, and persons
13 experienced in hospital administration and sanitary inspections.
14 During the inspection, the team shall offer advice and assistance
15 to the hospital as it deems appropriate.

16 (f) The department shall ensure that a periodic inspection
17 conducted pursuant to this section is not announced in advance of
18 the date of inspection. An inspection may be conducted jointly
19 with inspections by entities specified in Section 1282. However,
20 if the department conducts an inspection jointly with an entity
21 specified in Section 1282 that provides notice in advance of the
22 periodic inspection, the department shall conduct an additional
23 periodic inspection that is not announced or noticed to the health
24 facility.

25 (g) Notwithstanding any other provision of law, the department
26 shall inspect for compliance with provisions of state law and
27 regulations during a state periodic inspection or at the same time
28 as a federal periodic inspection, including, but not limited to, an
29 inspection required under this section. *Inspections shall include*
30 *review of compliance with state requirements for staffing, including*
31 *regulations adopted pursuant to Section 1276.4 and regulations*
32 *regarding patient classification systems.* If the department inspects
33 for compliance with state law and regulations at the same time as
34 a federal periodic inspection, the inspection shall be done consistent
35 with the guidance of the federal Centers for Medicare and Medicaid
36 Services for the federal portion of the inspection.

37 (h) The department shall emphasize consistency across the state
38 and its district offices when conducting licensing and certification
39 surveys and complaint investigations, including the selection of
40 state or federal enforcement remedies in accordance with Section

1 1423. The department may issue federal deficiencies and
2 recommend federal enforcement actions in those circumstances
3 where they provide more rigorous enforcement action.

4 SEC. 2. Section 1279.4 is added to the Health and Safety Code,
5 to read:

6 1279.4. (a) A health facility licensed pursuant to subdivision
7 (a), (b), or (f) of Section 1250 shall maintain a patient classification
8 system that shall be reviewed and updated annually.

9 (b) Failure to maintain and annually update a patient
10 classification system shall constitute an immediate jeopardy of
11 patients for the purposes of Sections 1280.1 or 1280.3.

12 (c) Failure to comply with a patient classification system shall
13 constitute a violation subject to subdivision (b) of Section 1280.3.

14 (d) For purposes of this section, a “patient classification system”
15 means a method for establishing staffing requirements by unit,
16 patient, and shift that includes all of the following:

17 (1) A method to predict nursing care requirements of individual
18 patients.

19 (2) An established method by which the amount of nursing care
20 needed for each category of patient is validated for each unit and
21 for each shift.

22 (3) An established method to discern trends and patterns of
23 nursing care delivery by each unit, each shift, and each level of
24 licensed and unlicensed staff.

25 (4) A mechanism by which the accuracy of the nursing care
26 validation method described in paragraph (2) can be tested. This
27 method will address the amount of nursing care needed, by patient
28 category and pattern of care delivery, on an annual basis, or more
29 frequently, if warranted by the changes in patient populations, skill
30 level of the staff, or patient care delivery model.

31 (5) A method to determine staff resource allocations based on
32 nursing care requirements for each shift and each unit.

33 (6) A method by which the hospital validates the reliability of
34 the patient classification system for each unit and each shift.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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